

# ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O assessment on Master X who has remained in immigration detention for more than 24 months (two years).

<b>Name</b>	Master X
<b>Citizenship</b>	Country A, (born to parents <sup>1</sup> in immigration detention)
<b>Year of birth</b>	2015
<b>Ombudsman ID</b>	1002694-O
<b>Date of DIBP's review</b>	17 June 2017
<b>Total days in detention</b>	730 (at date of DIBP's review)

## Detention history

18 June 2015	Following his birth to parents in immigration detention, Master X was detained under s 189(3) of the <i>Migration Act 1958</i> . He resides with his family in community detention.
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## Visa applications/case progression

The Department of Immigration and Border Protection (the department) advised that as Master X's family arrived in Australia by sea after 19 July 2013 and was transferred to a Regional Processing Centre (RPC), Master X and his family are barred under ss 46A and 46B from lodging a valid protection visa application.

Master X's family was returned to Australia for medical treatment on 6 September 2014.

The department has advised that under current policy settings Master X is not eligible to have his protection claims assessed in Australia and remains liable for transfer back to an RPC on completion of his treatment.

## Health and welfare

International Health and Medical Services advised that Master X was referred for paediatric review in September 2015 after presenting with symptoms of reflux.

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<sup>1</sup> Master X's parents, Mr Y and Ms Z, and his brother, Master P, are the subject of Ombudsman assessment 1002229-O1.

### **Ombudsman assessment/recommendation**

Master X was detained on 18 June 2015 following his birth to parents in immigration detention and has been held in detention for more than two years with no processing of his protection claims.

Master X's family was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Master X's family arrived after 19 July 2013, Master X and his family remain liable for transfer back to an RPC on completion of their treatment.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to mental and physical health prolonged and apparently indefinite detention may pose.

The Ombudsman notes that under current policy settings Master X is not eligible to have his protection claims assessed in Australia and that without an assessment of Master X's claims it appears likely he will remain in detention indefinitely.

The Ombudsman recommends that priority is given to resolving Master X and his family's immigration status.